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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,812	08/25/2003	Donald E. Weder	8403.940	2356
30589	7590	03/09/2004		
DUNLAP, CODDING & ROGERS P.C. PO BOX 16370 OKLAHOMA CITY, OK 73113				
EXAMINER EGAN, BRIAN P				
ART UNIT 1772		PAPER NUMBER		

DATE MAILED: 03/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/647,812	WEDER, DONALD E.	
	Examiner	Art Unit	
	Brian P. Egan	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>8/25/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Interpretation

1. The limitation “wherein the matte finish is provided by at least one of printing the sheet of polymeric material with a matted ink, lacquering the sheet of polymeric material with a matting lacquer, extruding the sheet of polymeric material onto a matted chill roll, laminating a second sheet of material to the sheet of polymeric material, and combinations thereof” as claimed in claims 1, 9, 12, and 15 is given little to no patentable weight. The aforementioned limitation is a product-by-process limitation. As detailed in MPEP 2113, even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.

Specification

2. The disclosure is objected to because of the following informalities: in the related applications section of the specification, the phrase “now abandoned” must be inserted after application 09/915,171.

Appropriate correction is required.

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Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weder et al. (#4,773,182) in view of BE 886,552 (hereinafter BE '552).

Weder et al. teach a flexible, non shape sustaining (Col. 3, lines 30-34), polymeric material ("polypropylene, polyvinyl chloride, or combinations thereof"; Col. 2, lines 24-28) that is formed into a preformed flower pot cover comprising a polymeric film having an upper surface and a lower surface, at least a portion of one of the upper and lower surfaces of the polymeric film being provided with an acrylic heat sealable lacquer (Col. 5, lines 56-59) disposed on at least a portion of one of the upper and lower surfaces of the polymeric film whereby upon forming the flexible polymeric material into the preformed flow pot cover, a plurality of overlapping folds are formed and at least a portion of the overlapping folds are connected to adjacently disposed portions of the preformed flower pot cover via the acrylic heat sealable lacquer (Col. 3, line 49 to Col. 4, line 33). In one embodiment, a foil sheet is adhesively connected to an uncoated polymeric sheet with an interleaved third polymeric sheet which is adhesively coated on both surfaces – the polymeric films are water impervious ("substantially waterproof"; Col. 21, lines 62-65) and the laminating adhesive coating comprises colored adhesive (Col. 19, lines 66-68). The polymeric films have thicknesses in the range of 1.0 to 1.5 mils (Col. 20, lines 58-60) wherein the laminated film has a total thickness in a range from about

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2.0 to 3.0 mils (Col. 20, lines 62-64). The flexible polymeric material is formed into a decorative preformed flower pot cover having a finish wherein the flower pot cover comprises a base and a decorative border, the base having a lower end, an open upper end, an outer peripheral surface, an inner peripheral surface, and a retaining space (see Figs. 3(a-c)). The decorative border extends outward from the open upper end of the base (Col. 3, lines 6-9) and the base of the decorative preformed flower pot cover has a plurality of overlapping folds of which at least a portion are permanently connected (Col. 4, lines 32-33) so that the decorative preformed flower pot cover may be substantially flattened and then unflattened to assume the original shape of the decorative preformed flower pot cover (Col. 21, line 68 to Col. 22, line 7). A substantial portion of the overlapping folds in the decorative preformed flower pot cover extend over different distances and various arbitrary angles (Col. 3, line 54-63) and the decorative border is substantially free of permanently connected overlapping folds (Col. 4, lines 52-54).

Weder et al. fail to teach a matte finish printed with a matted ink or lacquered with a matted lacquer.

BE '552, however, teach the use of plastic materials (including polystyrene, PVC, and polyolefins) printed with matte inks (see Derwent Abstract). BE '552 teaches the use of the matt inks for the purpose of manufacturing colored sheets for decorative displays, notices, design work, etc. which can accept marks from pencils, paints, crayons, etc. (see Derwent Abstract). It would have been obvious through routine experimentation to one of ordinary skill in the art at the time Applicant's invention was made to have provided a plastic film substrate with a matte ink for the purpose of manufacturing a colored sheet, decorative display, design work, or the

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like, which can subsequently accept marks from pencils, paints, crayons, etc., as taught by BE '552.

Therefore, it would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to have modified Weder by printing a matte ink on a surface of the polymeric substrate (thereby making the matte finish visible on at least a portion of one surface of the laminated polymeric film) as taught by BE '552 in order to manufacture a colored sheet, decorative display, design work, or the like, which can subsequently accept marks from pencils, paints, crayons, etc.

5. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weder et al. (#4,773,182) in view of Collier (#4,684,675).

Weder et al. teach a decorative preformed flowed pot cover as detailed above.

Weder et al. fail to teach a matte finish printed with a matted ink or lacquered with a matted lacquer.

Collier, however, teaches the use of lacquering a matte lacquer on the surface of a polymeric film (see Abstract). Collier teaches the use of a matte lacquer for the purpose of providing a polymeric film base with desired non-streaking matte properties so that the film is suitable for subsequent design printing (see Abstract; Col. 1, lines 13-50). It would have been obvious through routine experimentation to one of ordinary skill in the art at the time Applicant's invention was made to have modified a plastic film substrate with a matte lacquer for the purpose of providing a polymeric film base with desired non-streaking matte properties so that the film is suitable for subsequent design printing as taught by Collier.

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Therefore, it would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to have modified Weder et al. by lacquering a matte lacquer upon the surface of the polymeric film (thereby making the matte finish visible on at least a portion of one surface of the laminated polymeric film) as taught by Collier in order to provide a polymeric film base with desired non-streaking matte properties so that the film is suitable for subsequent design printing.

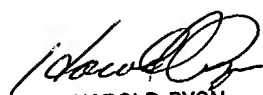
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian P. Egan whose telephone number is 571-272-1491. The examiner can normally be reached on M-F, 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y. Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


BPE 2/27/04


HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

3/2/04